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May 3, 2007

The Fairchild Corp. v. Alcoa Inc.
CPR File: F-06-22H

Dear Judge Stapleton:

I hesitate to burden Your Honor with additional correspondence, but I write briefly in response to Fairchild's letter of May 2 to ensure that the record has not been obscured. There has been no failure of proof. As noted in my letter of May 1, Alcoa proved its damages both through the introduction of numerous invoices and through the competent testimony of its witnesses, including its Designated Representative to Fairchild, John Lease, who was responsible for managing Alcoa's indemnification claim process.¹ That testimony was unchallenged. Fairchild apparently made a strategic choice not to cross-examine Alcoa's witnesses about the amounts Alcoa spent, despite the fact that it had in its possession the relevant invoices.

The shrill tone of Fairchild's letter is regrettable, and we will not resort to such tactics, but the assertion that there is no evidence of Alcoa's damages in the record is simply false.

Respectfully,

Evan R. Chesler

¹ See, e.g., Tr. 809:15-810:18; 902:4-25; 908:3-912:2; 941:6-19; 945:15-23; 984:8-13; 986:2-6; 1107:5-12; 1185:24-1186:6; 1398:25-1399:10; AX 69; AX 125; AX 168; AX 241; AX 242; Bulk AX C, Vol. 1 at 61-70, 71-114, 136-375, 376-586; Vol. 2 at 587-793; Vol. 5 at 4342-44, 4511-14, 4931-37; Vol. 7 at 7924-31; Vol. 22 at 23995-24006. See also, e.g., Tr. 2782:11-2783:3; 2798:22-24; 2799:19-2800:7; 2801:25-2802:7; 2803:13-18; 2852:8-19; Cl. Ex. 455; AX 32; AX 103.

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